

COUNTY OF SAN DIEGO, CALIFORNIA
BOARD OF SUPERVISORS POLICY

Subject

Refund and Relief Policy When Permits and Projects are Issued in Error

**Policy
Number**

I-118

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Purpose

To establish a policy for identifying the circumstances for which an applicant is eligible for a refund of fees paid or other relief where an error has been made in the permit or approval process.

Background

The Departments of Environmental Health, Public Works, Parks and Recreation, and Planning and Development Services are responsible for issuing a wide range of permits and project approvals. These include water well, grading, building and septic system permits; zoning permits such as Variances, Use Permits and Site Plans; and various subdivision approvals. The Department of Parks and Recreation is responsible for managing the acquisition and development of local parks in relation to such projects. Each year hundreds of such permits and approvals are issued by each Department. Occasionally, an error is made in the permit or approval process for which the applicant is judiciously due a refund or other form of relief.

The Departments have been administering refunds, adjustments and other forms of relief for these errors in accordance with current ordinances and codes. However, the ordinances and codes do not leave room for flexibility where it might be desirable. This policy is to formalize a specific set of criteria and circumstances under which applicants can seek refunds or other relief.

Policy

It is the policy of the Board of Supervisors that:

1. An applicant is owed a refund, a credit, fee waiver, or other relief for any fees or deposits paid when the applicant can demonstrate that:
 - a. The permit issued or approval granted was rescinded due to staff error; or,
 - b. An additional County permit or approval is required for the project due to staff oversight; and,
 - c. No misinformation was supplied nor information withheld by the applicant which resulted in the permit rescission or initial oversight.
2. This policy shall not create a liability for the County of any kind. Any approval or permit issuance done in error shall not create a liability for the County to pay for or to grant other approvals.

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3. In lieu of, or in addition to, financial relief, the following actions may be taken, when appropriate, at the discretion of the Director:

- a. A decision not to pursue a violation or not to rescind a permit or project approval.
- b. A decision to grant special considerations, such as time extensions, processing expedition, and/or other special assistance to achieve code or regulation compliance.
- c. The use of discretion or interpretation when allowed by the applicable codes, ordinances and regulations in order to resolve the specific problem.
- d. A decision to waive the permit fee for a subsequent permit which was overlooked by staff at the time of original permit issuance.

Procedure

1. In circumstances where it is determined that a permit or approval is to be rescinded, if the applicant is eligible for relief under this Policy they shall be notified of such eligibility.
2. The applicant will be responsible for submitting, in writing, a statement directed to the Department responsible for the decision to rescind the permit or approval which includes:
 - a. Applicant's name and address.
 - b. Details of permit or approval.
 - c. Reason, as determined by County, for the rescission.
 - d. Reason (s) that relief should be granted pursuant to this Policy.
 - e. Any other information to support the request for relief.
3. The request for relief will be reviewed by the Director of the responsible Department who will initiate a refund or other relief for requests found to be eligible. The Director will consider both the applicant's and the public's interest in the determination of this finding. (Any refund or other form of financial relief shall not exceed the actual fees paid for a particular permit or project approval.)
4. All requests and findings for relief shall be documented and maintained in the public record by the responsible department.

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5. This Policy does not authorize refunds of any fees collected as penalties for violations or for delinquent payment of permit fees.

6. The decision of the Director of the responsible department is final and cannot be appealed.

Sunset Date

This policy will be reviewed for continuance by 12-31-17.

Board Action

10-11-95 (1)

8-7-2002 (5)

12-09-08 (33)

11-10-10 (7)

09-25-12 (11)

1. Department of Planning and Development Services
2. Department of Environmental Health
3. Department of Public Works
4. Department of Parks and Recreation